

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

FILED

DEC 27 2005

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY 158
DEPUTY CLERK

Richard Larance Ford, III,

Plaintiff,

v.

Equifax Information Services, LLC,
CSC Credit Services and Experian
Information Solutions, Inc.,

Defendants.

§
§
§
§
§
§
§
§
§
§
§

Civil Action No. W05CA148

**MOTION TO COMPEL OF DEFENDANT
EXPERIAN INFORMATION SOLUTIONS, INC.**

Having exhausted all other options, Defendant Experian Information Solutions, Inc. (“Experian”) respectfully requests an order compelling Plaintiff to immediately provide verified interrogatory responses in accordance with Federal Rule of Civil Procedure 33(b) and Western District of Texas, Local Rule CV-33(a), and awarding such other relief as the Court deems appropriate. Nearly three months have passed since Experian served its First Set of Interrogatories, and, despite repeated requests, Plaintiff has failed to provide the required verification.

More specifically, Experian respectfully shows the Court as follows:

1. On September 29, 2005, Experian served its First Set of Interrogatories by mail. Plaintiff’s responses, therefore, were due to be served on or before November 1, 2005.
2. Plaintiff was unable to meet the November 1 deadline and Experian agreed to multiple extensions of Plaintiff’s response deadline. On November 15, 2005, Plaintiff served his Responses to Experian’s First Set of Interrogatories (“Responses”).

38

3. Plaintiff's Responses did not include a verification. In a letter, dated November 15, 2005, Plaintiff's attorney stated that he would provide the verification "as soon as possible." (See Exhibit 1, attached.)

4. When a party is unable to verify the responses at the time of their service, the Local Rule provides that "the attorney may serve the responses without the party's signature if an affidavit is served simultaneously stating that properly executed responses to interrogatories will be filed within twenty (20) days." Plaintiff's unverified Responses did not include the affidavit required by the Local Rule.

5. After receiving Plaintiff's unverified Responses, Experian wrote to Plaintiff's counsel concerning the missing affidavit. Attempting to cooperate, Experian stated, in a letter dated November 18, 2005, that it would agree not to insist on the required affidavit *if* Plaintiff's counsel would merely confirm in writing that he would serve the required verification within twenty days from the date of the original responses (*i.e.*, on or before December 5, 2005). (See Exhibit 2, attached.)

6. To this date, Plaintiff has not responded to Experian's November 18 letter. He has also failed to supply a verification.

7. In a second letter, dated December 13, 2005, Experian again notified Plaintiff that it had not received verified Responses and asked that the verification be supplied on or before Friday, December 16, 2005. Experian informed Plaintiff's counsel that, if a verification was not supplied by that date, Experian would file a Motion to Compel. (See Exhibit 3, attached.)

8. Plaintiff has failed to respond to Experian's December 13 letter. He has still not supplied an affidavit or verification.

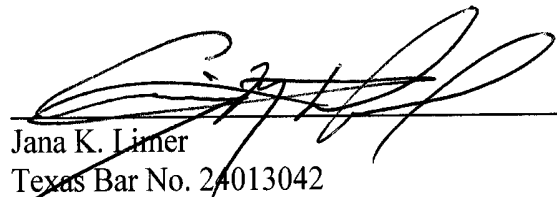
9. More than twenty days have passed since the service of the unverified Responses.

Plaintiff's obligation is clear, as is his breach of that obligation. Pursuant to Federal Rule of Civil Procedure 33(b) and the Local Rule, Plaintiff was required to serve properly verified interrogatory responses no later than December 5, 2005. He has ignored that obligation, despite repeated reminders and requests.

WHEREFORE, Experian respectfully requests entry of an order compelling Plaintiff to immediately provide verified interrogatory responses and awarding such other relief as the court deems appropriate.

Dated: December 21, 2005

Respectfully submitted,



Jana K. Liner
Texas Bar No. 24013042
JONES DAY
2727 N. Harwood
Dallas, TX 75201
Telephone: (214) 220-3939
Facsimile: (214) 969-5100

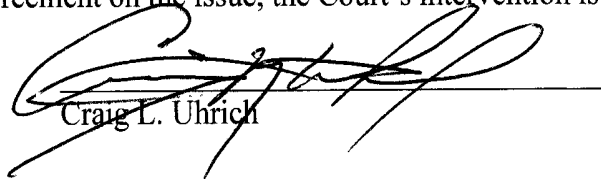
Craig L. Uhrich
Texas Bar No. 24033284
JONES DAY
2727 N. Harwood
Dallas, TX 75201
Telephone: (214) 969-3756
Facsimile: (214) 969-5100

Lucas W. Andrews
(admitted *pro hac vice*)
Georgia Bar No. 019533
JONES DAY
1420 Peachtree Street N.E., Ste. 800
Atlanta, GA 30309
Telephone: (404) 521-3939 x-48054
Facsimile: (404) 581-8330

*Attorneys for Defendant
Experian Information Solutions, Inc.*

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule CV-7(h), I certify that I have attempted to resolve this issue with Plaintiff, but have been unsuccessful. Specifically, I certify that I sent a letter, dated November 18, 2005, to Plaintiff notifying him of the problem and offering to waive the required affidavit if Plaintiff's attorney confirmed that properly executed interrogatory responses would be filed within twenty days. Additionally, I certify that my colleague Lucas W. Andrews sent a letter, dated December 13, 2005, notifying Plaintiff of this problem. Plaintiff did not respond to either letter. As we were unable to reach agreement on the issue, the Court's intervention is required.



Craig L. Uhrich

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of December 2005, I served a true and correct copy of the foregoing Motion to Compel of Defendant Experian Information Solutions, Inc. by mailing same, postage prepaid and properly addressed to:

Cassie Gresham
BRAUN & ASSOCIATES
14101 Highway 290W
Suite 400C
Austin, TX 78737
Attorney for Plaintiff

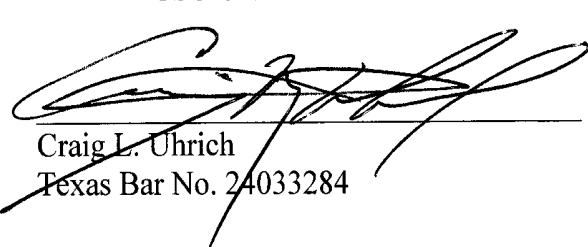
Barbara M. Ellis
LOCKE LIDDEL & SAPP, L.L.P.
100 Congress Avenue
Suite 300
Austin, Tx 78701-4042
Attorney for Defendant
Equifax Information Services, LLC

(certified article #: 7160 3901 9849 0681 4309)

Christopher E. Kittell
Webster Gresham & Kittell
144 Sunflower Avenue
P.O. Drawer 760
Clarksdale, MS 38614
Attorney for Plaintiff

Allison L. Bowers
BAKER BOTTS
98 San Jacinto Blvd.
Suite 1600
Austin, TX 78701
Attorney for Defendant
CSC Credit Services

Chad Pinson
Van H. Beckwith
Jeffrey Moles
BAKER BOTTS, LLP
2001 Ross Avenue
Suite 600
Dallas, TX 75201
Attorney for Defendant
CSC Credit Services



Craig L. Uhrich
Texas Bar No. 24033284

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

**NOTICE OF DOCUMENT(S) NOT IMAGED
AND CONTAINED IN CASE FILE**

Civil Case No. W-05-CA-148

RICHARD FORD, III

VS.

EQUIFAX INFORMATION SVCS., ET AL

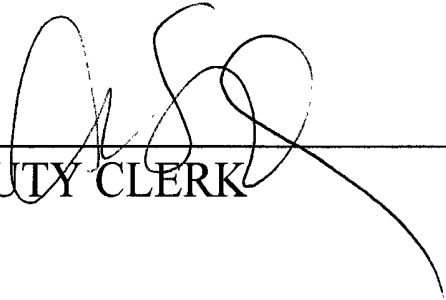
Attachments to

Document #: 38

Description: MOTION TO COMPEL

Filed By: DFT EXPERIAN

File Date: 12/27/05



DEPUTY CLERK